

**Amendments to the Drawings:**

The attached sheet of drawings includes changes to Fig. 4 and replaces the original sheet showing Fig. 4. In the attached replacement sheet, the quality of Fig. 4 has been corrected and reference number 32 has been removed.

Attachment: Replacement Sheet

## **REMARKS/ARGUMENTS**

Claims 38-64 are pending in the present application. Claims 38-51 are withdrawn and claims 52-64 stand rejected. Claims 52, 55 and 56 have been amended. No new matter has been entered. This amendment is in response to the Office Action dated February 23, 2009.

### **I. STATUS OF OATH/DECLARATION**

The declaration is deemed defective because it is not written in English. Applicant submits the attached new English declaration in compliance with 37 CFR 1.67(a) identifying the application by application number and filing date. Accordingly, acceptance of the attached new declaration is respectfully requested.

### **II. STATUS OF THE DRAWINGS**

New corrected drawings in compliance with 37 CFR 1.121(d) are required such that the quality of Fig. 4 is corrected. Applicant respectfully submits a replacement sheet of Fig. 4 which corrects the line quality. In addition, inadvertently shown reference character 32 has been removed from Fig. 4. Accordingly, the correction to Fig. 4 is believed to correct the deficiencies in the drawings and Applicant respectfully requests entry of the replacement sheet to the drawings and that the objection to the drawings be withdrawn.

### **III. STATUS OF THE CLAIMS**

Claim 52 is objected to for not distinguishing major elements in the claim from one another by indentation of separate lines as required by 37 CFR 1.75(i).

Claims 52, 55 and 56 are rejected under 35 U.S.C. §112, second paragraph, (hereinafter, "Section 112, Par. 2"), as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 52, 54, 57-63 are rejected under 35 U.S.C. §102(b), (hereinafter, "Section 102(b)"), as being anticipated by Lindstrom et al. (U.S. Pat. 6,299,108 B1, hereinafter "Lindstrom").

Claims 53-58 and 64 are rejected under 35 U.S.C. § 103(a), (hereinafter, "Section 103(a)"), as being unpatentable over Lindstrom in view of Baston et al. (U.S. Pat. 4,260,121, hereinafter "Baston").

Applicant respectfully traverses all rejections and requests reconsideration of the pending claims for at least the following reasons.

#### A. OBJECTION TO CLAIM 52

Claim 52 has been amended such that indentation of separate lines are now shown and it is believed to be in compliance with 37 CFR 1.75(i). Accordingly, Applicant respectfully requests withdrawal of the objection to claim 52.

#### B. REJECTION UNDER SECTION 112, PAR. 2

Claim 52 has been amended to provide antecedent basis for limitations of the claim, namely, "a load", "a power supply" and "a drive power". Therefore it is believed that claim 52 has been amended with proper antecedent basis for claimed limitations. Claim 55 and 56 have also been amended such that "its signals" have been clarified and replaced with "signals

being delivered to the monitoring unit from the angle position transmitter located on the drive unit”, as correctly understood by Examiner. Accordingly, the amendments to claims 52, 55 and 56 are believed to overcome the rejections and Applicant respectfully requests withdrawal of the rejection against the claims under Section 112, Par. 2.

### C. REJECTION UNDER SECTION 102(b), LINDSTROM

Claims 52, 54, 57-63 are rejected under Section 102(b) as being anticipated by Lindstrom. Applicant respectfully traverses this rejection. Independent claim 52, upon which claims 54, 57-63 all depend from, recites in part that “by comparison of at least one reference variable which represents a load in the drive trains with a corresponding threshold value which is predetermined from a maximum permissible load, produces a control signal for monitored limiting of a power supply to the drive unit in the sense of limiting a drive power that is supplied.” As required to anticipate claim 52, Lindstrom must teach each and every element of the claim. However, Lindstrom does not teach of at least the limitations of a “reference variable which *represents a load in the drive trains*”. Rather, Lindstrom describes a “sensor output signal” from position-sensors arranged on each flap, the signal corresponding to a change in the position of each flap. If there is failure at any one of the flap supports, causing a signal difference to exceed a predetermined level, the drive unit *is just stopped*.

Thereby, Lindstrom also fails to teach of “produces a control signal for monitored *limiting* of a power supply to the drive unit in the sense of *limiting* a drive power that is supplied.” Rather, Lindstrom fails to show “limiting a drive power that is supplied”, and instead discloses sending “a signal to close the shutoff valve, thus *stopping* the power drive

unit from diving the system any farther... alerting the pilot of the malfunction and *drive shut-down*" (Lindstrom, col. 3, lines 42-44, 47-48). Such "stopping" of the power drive unit in no manner teaches the "monitored limiting of a driver power that is supplied". As claimed, the power supply to the drive unit is *limited*, therefore, power supply to the drive unit continues, it is not stopped. Drive shut-down/stopping fails to teach of "monitored limiting of power supply to the drive unit". The claimed system avoids excessive load in particular torque at the drive trains, which can brake disadvantageously, without stopping the drive unit.

Since Lindstrom fails to teach a "reference variable which represents a load in the drive trains", and as the drive unit in Lindstrom is "stopped" or "shut-down", there is no teaching of "a control signal for monitored limiting of a power supply to the drive unit in the sense of limiting a drive power that is supplied". Lindstrom fails to teach or suggest all the claimed limitations of claim 52 as required to anticipate the claim. Therefore, claim 52 is believed allowable over Lindstrom. As claims 54 and 57-63 include all the limitations of their base claim 52, these dependent claims are believed allowable over Lindstrom for at least the same reasons as claim 52. Accordingly, Applicant respectfully requests withdrawal of the rejection of claims 52, 54 and 57-63 under Section 102(b).

#### D. REJECTION UNDER SECTION 103(a), LINSTROM IN VIEW OF BASTON

Claims 53-58 and 64 are rejected under Section 103(a) as being unpatentable over Lindstrom in view of Baston. As discussed above, independent claim 52, upon which dependent claims 53-58 and 64 depend from, recite in part that "by comparison of at least one reference variable which represents a load in the drive trains with a corresponding threshold

value which is predetermined from a maximum permissible load, produces a control signal for monitored limiting of a power supply to the drive unit in the sense of limiting a drive power that is supplied.” As required for a showing of obviousness, all claim elements must be shown by the combination of Lindstrom and Baston. As discussed, Lindstrom fails to teach all claimed limitations of amended claim 52.

Neither does Baston provide for the deficiencies of Lindstrom. In the Action, Baston is cited to show a “motor 23” is provided with “probes 36, 37” as teaching “an angle position transmitter on the drive unit”. It is not seen how the “probes” in Baston represent “an angle position transmitter” as claimed. Moreover, Baston does not teach any of the underlying limitations of claim 52, either on its own or in combination with Lindstrom. These references fail to teach a “reference variable which represents a load in the drive trains with a corresponding threshold value which is predetermined from a maximum permissible load, produces a control signal for monitored limiting of a power supply to the drive unit in the sense of limiting a drive power that is supplied.” Accordingly, it is believed that claim 52 is patentable over Lindstrom in view of Baston.

Claims 53-58 and 64, as dependent on claim 52, are believed allowable for the same reasons, since Lindstrom in light of Baston fail to teach or suggest ALL claim limitations as required to establish a prima facie case of obviousness. Applicant therefore respectfully requests withdrawal of the rejection of claims 53-58 and 64 under Section 103(a).

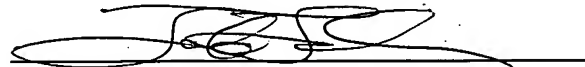
It is respectfully noted that the Applicant's corresponding European patent application EP 04 803 138.9 has been granted with the originally filed claims which were found allowable in view of Lindstrom and Baston being cited during examination.

#### CONCLUSION

In view of the foregoing, Applicant respectfully submits that all of the pending claims of the present application are now in condition for allowance. Reconsideration and allowance of the present application are therefore earnestly requested. Should the Examiner have any questions regarding the above amendments, the Examiner is invited to telephone Applicant's representative at the number listed below.

Respectfully submitted,

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